IN THE HIGH COURT FOR THE STATE OF TELANGANA

AT HYDERABAD

WP. No. of 2021

Between:

1. The Superintending Engineer, Operation,

Banjara Hills Circle, Telangana State Southern Power Distribution Company Limited (TSSPDCL), Hyderabad.

2. The Divisional Engineer, Operation,

Banjara Hills Circle, Telangana State Southern Power Distribution Company Limited (TSSPDCL), Hyderabad

3. The Assistant Accounts Officer, ERO,

Banjara Hills Circle, Telangana State Southern Power Distribution Company Limited (TSSPDCL), Hyderabad.

4. The Assistant Divisional Engineer, Operation,

Banjara Hills Circle, Telangana State Southern Power Distribution Company Limited (TSSPDCL) Hyderabad.

5. The Assistant Engineer, Operation, Banjara Hills ,

Telangana State Southern Power Distribution Company Limited (TSSPDCL), Hyderabad

…Petitioners

And

1. Consumer Grievances Redressal Forum,

TSSPDCL, H. No: 8-3-167/E/1, CPTI Premises,

GTS Colony, Vengalaraonagar Colony,

Erragada, Hyderabad – 500 045.

2. Sri. M. Gopal Reddy,

#6-3-456/C, MGR Estates,

Dwarakapuri Colony,

Panjagutta,

Hyderabad - 500082

…Respondents

AFFIDAVIT

I, Avula Aruna W/o Sreedhar Rao, aged: 46 years Occ: Assistant Accounts Officer, ERO, Banjara Hills, TSSPDCL, Hyderabad do here by solemnly affirm and state on oath as follows:

I am working as Assistant Accounts Officer, ERO, Banjara Hills, TSSPDCL, Hyderabad and well acquainted with the facts of the case and I am authorized to swear this affidavit.

1. It is submitted that the present Writ Petition is filed aggrieved by the orders of the 1st Respondent dated: 31-03-2021 in C.G.No.132/2020-21, Banjara Hills Circle as unjust, illegal, arbitrary and without sanction of law and to set aside the same.

2. It is submitted that the Low Tension service connection bearing LT SC. No. A5008490 with Contracted Maximum demand of 28.0 KW was released in the name of Sri. M. Gopal Reddy in premises bearing P. No. A. Survey No. 145 & 146, D. P. Colony, Panjagutta, Hyderabad. The said service connection was granted under LT Category –II Non Domestic and commercial.

3. It is submitted that the service connection was inspected on 05-04-2011 and it was noticed that the connected load is 51 KW but whereas the contracted load is only28 KW Hence, development charges are proposed. A provisional assessment notice for regularization of additional load of 23 KW was issued to the consumer and a demand for Rs. 72,680/-,was made for regularization of full load. The said amount was paid by the consumer but the load has not been updated in Energy Billing System (EBS).

4. It is submitted that as per the General Terms and Conditions of Supply (GTCS) the unauthorized loads have to be regularized after payment of the provisionally assessed amounts and fixed charges are to be collected from the date of regularization of unauthorized loads. The demand towards fixed charges could not be raised as the loads have not been uploaded in the EBS.

5. It is submitted that in case of Low Tension category the fixed component is recovered in the name of “Fixed charges” levied in Rs. / KW and in case of HT Consumers it is levied in the name of “Demand Charges” in Rs. / KVA. The Fixed/ Demand charges shall be levied on the consumer to recover the fixed cost component of Power Purchase Cost payable to the Generators, Intra- State transmission cost payable to Telangana State Transmission Corporation (TSTRANSCO), Inter State Transmission Charges payable to Power Grid Corporation of India Limited (PGCIL), Wheeling charges of the DISCOMS i.e, TSSPDCL. The Fixed/ Demand Charges also include employee expenses, depreciation on assets, interest on loans, repairs and maintenance cost, and other administrative and general cost.

6. It is submitted that the Erstwhile APERC has approved the General Terms and Conditions of Supply (GTCS) vide proceedings dated 06-01-2006 and the GTCS is of Statutory nature. The Discoms have to follow the General Terms and Conditions of Supply in providing electricity connections and the charges to be levied from the consumers both industrial, commercial and domestic etc.

7. It is submitted that the service connection was inspected on 20-2-2021 and it was noticed that the fixed charges were not being paid and on verification of records it is revealed that the petitioner is liable to pay the fixed charges from April 2012, to January 2021. The amount of fixed charges was arrived at Rs. 1,22,925/- was included in the bill for the month of January 2021. Aggrieved by the said inclusion the 2nd Respondent has filed the complaint before the 1st Respondent bearing CG. No. 132/20-21 Banjara Hills Circle.

8. It is submitted that the TSSPDCL has also filed a reply to the complaint stating that the service connection was provided with a contracted load of 28 KW but on inspection conducted on 05-04-2011 it was noticed that the actual connected load is 51 KW. The petitioner has paid and demanded amount of Rs. 72680/-towards unauthorized additional load of 23 KW on 02-01-2021.

9. It is submitted that the Petitioner is liable to pay the fixed charges for the actual connected load of 51 KW and as the load was not updated in the EBS the said amount could not be collected. After updation of the load in the month of January 2021, the fixed charges amounting to Rs. 1,25,925/- were reflected in the bill for the month of January 2021.

10. It is submitted that the 1st Respondent by order dated 31-03-2021 in CG. No. 132/2020-21 has allowed the grievance of the petitioner in part and directed that the TSSPDCL is only entitled to collect the fixed charges on the additional load of 23 KW only for 3 years i.e, from January 2018 to December 2020 for excess laod of 23 KW.

It is submitted that aggrieved by the orders of CGRF dated 31-03-2021 in CG . No. 132/2020-21, Banjara Hills Circle the Writ Petition is filed following among other grounds.

GROUNDS

I.) The orders passed by the 1st Respondent are contrary to law, against the provisions of Electricity Act and the Regulations framed there under hence fit to be set aside.

II.) The 1st Respondent failed to appreciate the fact that the fixed charges can be demanded for the entire period where the additional load was not updated.

III.) The 1st Respondent should have appreciated the fact that the demand towards fixed charges can be raised for the entire period of the offence ie., from April 2012 to January 2021 ie. upto the date of load updation in the EBS.

IV.) The 1st Respondent failed to take note of the fact that the demand was raised in respect of fixed charges as per the General Terms and Conditions of Supply, The Electricity Act 2003 and the Regulations.

V.) The 1st Respondent without any proof being placed by the 2nd Respondent to show that the said demand cannot be raised from April 2012 to January 2021 has wrongly held that the amounts towards fixed charges can be collected only for three years prior from January 2018 to December 2020.

11. It is submitted that the orders of the 1st Respondent cannot be sustained for the grounds raised above and the same has to be set aside. The additional load which was placed on the system by the petitioner has caused severe damage to the infrastructure and the same can only be compensated by paying the fixed charges.

12. It is submitted that the 2nd Respondent has filed an application before the 1st Respondent to initiate action for not implementing the orders dated 31-03-2021 in CG No. 132/2020-21. The 1st Respondent is empowered to impose penalties as per the Telangana State Electricity Regulatory Commission (Establishment of Mechanism for Redressal of Grievances of the Consumers) Regulation 2015. If the operations of the orders dated 31-03-2021 in CG. No. 132/2020-21 are not suspended pending the Writ Petition the Petitioners shall suffer irreparable loss and injury.

13. It is submitted that there is no forum provided to appeal against the orders of the 1st respondents to the Telangana State Southern Power Distribution Company limited (TSSPDCL) and only the consumer can approach the Vidyuth Ombudsman against the orders of the Consumer Grievance Redressal Forum. Hence the only remedy available to the petitioner is to approach this Honorable Court under Article 226 of the Constitution of India.

14. It is submitted that the petitioners have no other alternative or efficacious remedy except to invoke the Jurisdiction of the Honourable court by way of filling the Writ petition under Article 226 of the constitution of India.

15. It is submitted that the Petitioners have not filed any writ petition, suit any other proceedings before any court of law in respect of the relief sought for in this writ petitioner.

16. It is submitted that the 1st Respondent has power to impose penalties under Regulations 2.54, 2.55, 2.56 of Regulation 3 of 2015 for not implementing its orders.

Main Prayer:For the above stated facts and circumstances it is therefore prayed that this Hon’ble High Court may be pleased to issue a writ, order or direction more particularly one in the nature of writ of certiorari by calling for the records and quash the orders dated 31-03-2021 in C.G.No. 132/2020-21/ Banjara Hills Circle passed by the 1st Respondent as arbitrary, illegal, unjust and contrary to the law and facts of the case and pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.

Interim Prayer:Pending disposal of the writ petition this Hon’ble Court may be pleased to stay the operation of the orders of the 1st respondent 31-03-2021 in C.G.No. 132/2020-21/ Banjara Hills and to pass such other order or orders as this Hon’ble Court deems fit and proper in the circumstances of the case.

Sworn and signed before me DEPONENT

On this day of May, 2021

At Hyderabad

Advocate: Hyderabad

VERIFICATION

I Avula Aruna W/o Sreedhar Rao, aged: 46 years Occ: Assistant Accounts Officer, ERO, Banjara Hills, TSSPDCL, Hyderabad, do hereby verify and declare that the facts stated in the above paragraphs of the affidavit are true to my personal knowledge, belief, information and also legal advise from my counsel.

Hence verified on this the day of May, 2021 at Hyderabad.

DEPONENT

Counsel for the Petitioner